

AMENDED IN SENATE APRIL 11, 2011

SENATE BILL

No. 652

Introduced by Senator Steinberg
(Principal Coauthor: Senator Gaines)
(Principal Coauthors: Assembly Members Dickinson, and Pan)

February 18, 2011

~~An act relating to redevelopment. An act to add Title 2.3 (commencing with Section 1812.40) to Part 4 of Division 3 of the Civil Code, relating to contracts, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 652, as amended, Steinberg. ~~Redevelopment: property tax revenues: allocation amounts: report. Professional sports teams: relocation agreements.~~

Existing law regulates contracts for particular transactions, including contracts for health studio services, contracts for the lease or rental of athletic facilities, and the sale of sport memorabilia.

This bill would prohibit a professional sports team that has previously entered into a financial agreement with a public entity from entering into a relocation agreement, as defined, unless it first provides to the public entity a bond, undertaking, or deposit in an amount adequate to ensure that its obligations under the financial agreement will be satisfied. The bill also would prohibit a professional sports team from entering into a relocation agreement if that team is in breach or default of any financial agreement, or if entry into a relocation agreement would cause a breach or default of any financial agreement, unless and until the breach or default is cured. The bill would provide that any agreement entered into in violation of these prohibitions is contrary to

public policy and is unenforceable. The bill would authorize the home public entity and home community, as defined, to seek, and would require the court to grant, an injunction to enjoin performance of any act under a relocation agreement that is made unenforceable by this bill. The bill would provide that performance under a relocation agreement entered into in violation of these prohibitions shall not be enjoined if all of the financial obligations the professional sports team owes to a home public entity and home community under a financial agreement are satisfied in full. The bill would require that any action or proceeding pursuant to these provisions be brought in a court of competent jurisdiction in the county in which the home public entity and home community are located. The bill would provide that these provisions apply to any relocation agreement entered on or after January 1, 2011.

This bill would declare that it is to take effect immediately as an urgency statute.

~~The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities in order to address the effects of blight, as defined, in those communities and requires those agencies to prepare, or cause to be prepared, and approve a redevelopment plan for each area. Existing law authorizes redevelopment agencies to pay the principal of, and interest on, indebtedness incurred to finance or refinance redevelopment, from a portion of property tax revenues diverted from other taxing agencies. The portion of taxes diverted is the amount attributable to increases in assessed valuation of property in the redevelopment project area subsequent to its establishment. This method of financing is commonly known as tax increment financing and is specifically authorized by Section 16 of Article XVI of the California Constitution.~~

~~This bill would state the intent of the Legislature to enact legislation to require county auditors to determine the amount of property tax revenues allocated, or estimated to be allocated, to a redevelopment agency, as specified, and to submit a report to the Controller containing this information.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

3 *(a) Professional sports teams provide a valuable source of*
4 *family-oriented entertainment.*

5 *(b) These teams often help create a strong sense of community*
6 *pride and community identity.*

7 *(c) Professional sports teams are big businesses. Modern teams*
8 *require an arena, team headquarters, team practice facilities, and*
9 *other infrastructure that cost tens of millions, even hundreds of*
10 *millions, of dollars to construct, improve, and maintain.*

11 *(d) Frequently, and increasingly, professional sports teams call*
12 *upon local governments to partner with them to share the costs of*
13 *the improvements and the new facilities they want.*

14 *(e) In California, local governments have entered into*
15 *multimillion dollar agreements and financing arrangements to*
16 *provide public resources that professional sports teams said they*
17 *needed to either come to the community or stay in the community.*

18 *(f) Those teams have agreed to repay and compensate the home*
19 *communities for committing public dollars in a variety of ways.*
20 *In some cases, teams have promised that they would pay off bonds,*
21 *buy the arena, or otherwise pay back particular government debt*
22 *if the team decides to move.*

23 *(g) However, the mere promise of a professional sports team*
24 *to pay back public money is not enough if the team disputes or*
25 *delays in paying or performing its obligations.*

26 *(h) The dollar amounts of the financial commitments made by*
27 *professional sports teams to California local governments are so*
28 *large that any uncertainty about whether or when the teams will*
29 *pay back public money and satisfy their financial obligations is*
30 *critical.*

31 *(i) If a professional sports team relocates to another community*
32 *and delays or challenges its obligation to repay a local government*
33 *tens of millions of dollars, the home community will have to either*
34 *make huge cuts in its budgets and services or try to borrow money*
35 *while it attempts to collect from the team. California and its largest*
36 *cities and counties already face unprecedented financial pressures*
37 *that are forcing them to eliminate crucial services and facilities*
38 *that they provide to residents. Police and fire stations and jobs*

1 are being cut. Parks are being sold or closed. Streets are going
2 without needed maintenance. A community with a professional
3 sports team cannot afford to make additional cuts if the team
4 decides to relocate without first paying its financial obligations
5 to the community.

6 (j) If a professional sports team relocates and challenges or
7 delays the repayment of its financial obligations, the home
8 community may also be unable to borrow money because financial
9 markets may respond to the uncertainty of the team's repayment
10 by increasing interest rates the community pays to borrow money,
11 or even refusing to lend money altogether.

12 (k) Large cities and counties and the regions they serve cannot
13 absorb the additional financial pressure and cuts that would result
14 from a professional sports team relocating to another community
15 before first paying off its financial obligations to the home
16 community. Under current law, there are no mechanisms in place
17 to ensure that a relocating team pays all of its financial obligations
18 before leaving, causing large cities and counties to suffer the
19 uncertainties created by the team's departure.

20 (l) This act recognizes that, under the commerce clause of the
21 United States Constitution, state law may not indefinitely prohibit
22 a professional sports team from relocating either within California
23 or to another state. This act is not intended to bar or in any way
24 restrain a team's ability to relocate consistent with its applicable
25 league rules or bylaws. The sole intent and purpose of this act is
26 to require that, before a professional sports team relocates, it must
27 satisfy its financial obligations to its home public entities and home
28 community.

29 (m) This act is an exercise of the sovereign right of the state to
30 protect the lives, health, morals, comfort, and general welfare of
31 the people of the state, and is paramount to any rights under
32 contracts between individuals. The economic interests of the state
33 justify the exercise of its police power to protect the fiscal integrity
34 of public entities and home communities whose ability to provide
35 essential services to their residents may be harmed by a
36 professional sports team's relocation without payment of its
37 financial obligations to the home public entities and home
38 communities.

39 (n) This act is intended to support professional sports teams
40 and leagues and encourage local governments to partner with

1 professional sports teams and leagues by giving local governments
2 greater certainty that the public money they invest to attract and
3 retain teams will be repaid.

4 SEC. 2. Title 2.3 (commencing with Section 1812.40) is added
5 to Part 4 of Division 3 of the Civil Code, to read:

6
7 TITLE 2.3. CONTRACTS FOR RELOCATION OF
8 PROFESSIONAL SPORTS TEAMS
9

10 1812.40. The following definitions shall apply for purposes of
11 this title:

12 (a) “Breach or default” means any present or anticipated failure
13 to perform an obligation of a financial agreement between a
14 professional sports team and a public or private entity, including,
15 but not limited to, any of the following:

16 (1) Any act that is defined as a breach or default under the terms
17 of the financial agreement.

18 (2) Any failure to make a required payment or perform a specific
19 material act required under the terms of the financial agreement.

20 (3) Any act that, under the terms of the financial agreement,
21 would trigger an obligation to accelerate or immediately tender
22 payment or performance of an obligation, a requirement to pay
23 liquidated damages, a requirement to pay penalties, or similar
24 advanced payment obligations.

25 (4) Any act rendering it impossible to perform a material
26 obligation under the terms of the financial agreement.

27 (5) Any act amounting to a repudiation of a material term of
28 the financial agreement.

29 (6) Any act of waste or destruction of property owned by the
30 public entity or property in which the public entity has a security
31 interest under the terms of the financial agreement.

32 (b) “Current location” or “home community” means the city,
33 county, or city and county in the state in which a professional
34 sports team plays at least 50 percent of the regular season and
35 playoff games that are designated or considered by the professional
36 sports team’s governing professional sports league as “home
37 games” or the equivalent.

38 (c) “Financial agreement” means any binding legal obligation
39 between a public entity and a professional sports team by which
40 public moneys, public property, public assets, or any interests

1 *therein, are transferred, loaned, expended, conveyed, or*
2 *guaranteed for the use of a professional sports team, including,*
3 *but not limited to, any of the following:*

4 *(1) A loan from the public entity to the professional sports team.*

5 *(2) A commitment of the public entity to issue, or to cause the*
6 *issuance of, debt obligations, whether in the form of notes, bonds,*
7 *certificates of participation, or like instruments, the proceeds for*
8 *the sale of which will be applied to the benefit of the professional*
9 *sports team.*

10 *(3) Authorization for the professional sports team to utilize*
11 *public property or facilities in connection with its professional*
12 *sports activities.*

13 *(4) A guarantee by the public entity or the professional sports*
14 *team of any loan or other debt obligations, the proceeds of which*
15 *are, or will, be applied for the benefit of the professional sports*
16 *team.*

17 *(5) A lease or sale of, the financing or making of improvements*
18 *to, or the management of, any public property or facilities that are*
19 *proposed to be used, or that are being used, by the professional*
20 *sports team in connection with its professional sports activities.*

21 *(6) Purchase of the professional sports team by the public entity.*

22 *(7) Revenue sharing.*

23 *(8) Any other provision or arrangement of a like nature by which*
24 *the public entity provides financial assistance or other economic*
25 *incentives to encourage or induce a professional sports team to*
26 *either bring its professional sports activities to the home community*
27 *or, if already located within the home community, to remain in the*
28 *home community.*

29 *(d) “Home public entity” means any public entity that has*
30 *entered into a financial agreement with a professional sports team*
31 *playing its regular season and playoff home games in the home*
32 *community.*

33 *(e) “New community” means any city, county, or city and county*
34 *in the state other than the current location or home community.*

35 *(f) “Professional sports league” means an association or entity*
36 *that acts as the governing body for a set of regularly scheduled*
37 *professional athletic competitions in a particular team sport and*
38 *is responsible for defining competition rules, setting schedules,*
39 *and approving the relocation of teams. “Professional sports*
40 *league” includes, but is not limited to, the entities commonly known*

1 *as the Major League Baseball, Major League Soccer, the National*
2 *Basketball Association, the National Football League, and the*
3 *National Hockey League.*

4 (g) *“Professional sports team” means a person, corporation,*
5 *partnership, limited partnership, limited liability partnership, joint*
6 *venture, or other business entity that operates or owns a substantial*
7 *or controlling interest in a team organized to participate in*
8 *professional team sports as part of a professional sports league,*
9 *and that conducts over 50 percent of its home regular season and*
10 *playoff games or competitions in an indoor or outdoor arena or*
11 *stadium with permanent seating capable of accommodating more*
12 *than 9,000 persons attending the team’s games or competitions.*
13 *“Professional sports team” shall not include a minor league sports*
14 *team.*

15 (h) *“Public entity” means a city, county, city and county, joint*
16 *exercise of powers authority, special district, redevelopment*
17 *agency, or other board, district, or agency exercising governmental*
18 *powers in this state.*

19 (i) *“Relocation agreement” or “agreement to relocate” means*
20 *any binding legal obligation, entered into on or after January 1,*
21 *2011, by which a professional sports team, in accordance with the*
22 *rules, constitution, or bylaws of its governing professional sports*
23 *league, agrees to, obligates, or conditions the exchange of*
24 *consideration upon the professional sports team’s relocation from*
25 *its home community to a new community. Relocation agreements*
26 *or agreements to relocate include, but are not limited to,*
27 *agreements that pertain to the lease or use of an arena or stadium,*
28 *practice facilities, and related parking; the pledge, sharing, or*
29 *allocation of revenues from, or surcharges on, tickets, food, team*
30 *merchandise, concessions, parking, television, radio, cable or*
31 *broadcast or podcast rights; and the repayment of public or private*
32 *obligations necessary for facilities improvements for the benefit*
33 *of the professional sports team.*

34 1812.41. (a) *A professional sports team that has previously*
35 *entered into a financial agreement with a home public entity shall*
36 *not enter into a relocation agreement unless it first provides to the*
37 *home public entity a bond, undertaking, or deposit meeting the*
38 *requirements of Chapter 2 (commencing with Section 995.010) of*
39 *Title 14 of Part 2 of the Code of Civil Procedure in an amount*

1 *adequate to ensure that all of its obligations under the financial*
2 *agreement will be satisfied.*

3 *(b) A professional sports team shall not enter into a relocation*
4 *agreement if that team is in breach or default of any financial*
5 *agreement, or if entry into a relocation agreement would cause a*
6 *breach or default of any financial agreement, unless and until the*
7 *breach or default is cured.*

8 *1812.42. (a) A relocation agreement entered into in violation*
9 *of Section 1812.41 is contrary to public policy and is*
10 *unenforceable. The home public entity or home community may*
11 *seek, and, notwithstanding any other provision of law, the court*
12 *shall grant, an injunction to enjoin performance of any act under*
13 *a relocation agreement that is unenforceable under this*
14 *subdivision.*

15 *(b) Performance under a relocation agreement entered into in*
16 *violation of Section 1812.41 shall not be enjoined, or continue to*
17 *be enjoined, pursuant to subdivision (a) if all of the financial*
18 *obligations the professional sports team owes to a home public*
19 *entity and home community under a financial agreement are*
20 *satisfied in full. The financial obligations under a financial*
21 *agreement are not satisfied in full for purposes of this subdivision*
22 *merely by providing the bond, undertaking, or deposit pursuant*
23 *to subdivision (a) of Section 1812.41.*

24 *(c) Any action or proceeding pursuant to this section shall be*
25 *brought in a court of competent jurisdiction in the county in which*
26 *the home public entity and home community are located.*

27 *1812.43. The remedies provided by this title are cumulative*
28 *and not exclusive of any other remedy or cause of action provided*
29 *by law or equity, including, but not limited to, any joint and several*
30 *liability that may arise in contract or tort.*

31 *SEC. 3. The provisions of this act are severable. If any*
32 *provision of this act or its application is held invalid, that invalidity*
33 *shall not affect other provisions or applications that can be given*
34 *effect without the invalid provision or application.*

35 *SEC. 4. This act is an urgency statute necessary for the*
36 *immediate preservation of the public peace, health, or safety within*
37 *the meaning of Article IV of the Constitution and shall go into*
38 *immediate effect. The facts constituting the necessity are:*

39 *In order to reduce the uncertainty regarding the substantial*
40 *financial obligations owed to local governmental entities by*

1 *professional sports teams, and the potential impact on critical*
2 *government services funded by public moneys in the event those*
3 *financial obligations are breached, it is necessary that this act*
4 *take effect immediately.*

5 ~~SECTION 1. It is the intent of the Legislature to enact~~
6 ~~legislation to require county auditors to do both of the following:~~

7 ~~(a) Determine the amount of property tax revenues allocated,~~
8 ~~or estimated to be allocated, to a redevelopment agency within~~
9 ~~each county's boundaries for the 2009-10 to the 2013-14 fiscal~~
10 ~~years, inclusive.~~

11 ~~(b) Submit a report to the Controller containing the information~~
12 ~~determined in subdivision (a).~~